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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2911 OF 2019

Chandrakant S/o Pratapbhai Vankhede,
Age 32 years, Occ. Junior Engineer (Electrical),
R/o Mohadi, Tq. & Dist. Dhule

..PETITIONER

VERSUS

1. Union of India,
Ministry of Petroleum and Natural Gas
Shastri Bhavan
New Delhi- 110001 (India)
Through its Secretary.
2. The Sr. Manager (HRD)
GAIL (India) Ltd.
GAIL Bhawan, 16, Bhikaiji Cama Place,
R.K. Puram, New Delhi - 110066
3. The Dy. Manager (HR)
GAIL Gas Limited,
S-44 , 3rd Floor, M.S.Complex, New BEL
Road, Bengaluru - 560054, Karnataka State
4. The Sub Divisional Officer
Dhule, Tq. & Dist. Dhule

..RESPONDENTS

Mr S. C. Yeramwar , Advocate for petitioner;
Mr S. B. Deshpande, ASGI for respondent Nos.1 to 3;
Mr V. S. Badakh, A.G.P. for respondent No.4

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 5th March, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner challenges the impugned order/communication received by him on 18th February, 2019, passed by the Sub Divisional Officer, Dhule and this information was secured by the petitioner by visiting website of the Committee.

3. Considering the issue involved in the petition, the petition is taken up for hearing/disposal at the stage of admission.

4. Issue notice to respondents, returnable forthwith.

5. Mr Deshpande, learned Asstt. Solicitor General of India waives service of notice for respondent Nos.1 to 3 and learned Asstt. Govt. Pleader waives for respondent No.4.

6. The facts which are necessary for considering the issue are summarized as follows:

The petitioner belongs to 'Thakur - Scheduled Tribe'. The certificate was issued in favour of the petitioner through the Deputy Collector/Tahsildar, Dhule under his signature and seal on 12th April, 2005. A copy of the certificate is placed on record at Exh.'A'.

7. The petitioner responded to the advertisement issued by respondent No.2 - Gail (India) Limited for appointment to the post of Junior Engineer (Electrical). As the petitioner was possessing the requisite academic qualification and was submitted his claim as a candidate belonging to Scheduled Tribe category, he was appointed by an order dated 2nd September, 2016. A copy of the appointment order is also placed on record at Exh.'B'.

8. As a procedural formality, respondent No.2 - GAIL (India) Limited forwarded caste certificate for verification to the Sub Divisional Officer and on 24th July, 2017, it was informed to the Deputy Manager (HR) that the office has no previous record to verify the correctness of certificate but the sign on the caste certificate was compared with the office record and it is similar to the then Deputy Collector Devidas Vasave. On the backdrop of this communication, the petitioner expressed his willingness for obtaining the appropriate certificate and accordingly, the Sub Divisional Officer informed the Deputy Manager that the office is ready to issue fresh caste certificate on merit.

9. The petitioner submitted on-line application for issuance of certificate in 'C' form on 31st October, 2018. A copy of receipt is placed on record at Exh.'E'. On 20th November, 2018, the petitioner was informed that he

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received a partial information on visiting website of the Committee. A copy of screen shot obtained by the petitioner is placed on record at Exh.'F'. It reads "Desk3 - The Hon. High Court, Bombay, Bench at Nagpur in the case of Chhaya d/o Jasvantsingh Hajari and others Writ Petition No.4198/2005, Dated 01/08/2018, has stated that though there are pre-constitutional documents entries showing the caste as Thakur, but there".

10. The petitioner immediately submitted the representation to the Sub Divisional Officer, Dhule inviting his attention to the factual aspect, namely, a communication forwarded from the office of Sub Divisional Office, Dhule to his employer. An application submitted by the petitioner for issuance of certificate in 'C' form as per the Government Resolution dated 22nd June, 2016. The petitioner also stated in the representation that the communication dated 20th November, 2018, whereby an objection is raised in the application for issuance of caste certificate is untenable on the ground that it refers to an earlier position of area restriction and these conditions of area restriction were stayed by the Honourable the Apex Court. The petitioner, thus, prayed for issuance of caste certificate in 'C' form. The office of the Sub Divisional Officer, reiterating the same reason and making reference to very case of Chhaya Jasvantsingh Hajari and ors., declined to issue certificate to the petitioner.

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11. Learned Counsel appearing for the petitioner submitted that the order of the Sub Divisional Officer only reflects a mechanical approach of the authority. He submitted that the authority is under an impression that the petitioner is approaching the authority for issuance of a new and fresh certificate. He then submitted that though through the representation/application, the petitioner has brought to the notice of the Sub Divisional Officer all the relevant facts and the subject of representation/application dated 4th February, 2019 specifically states of grant of caste certificate in 'C' form, the office of the Sub Divisional Officer only reiterated its earlier order dated 20th November, 2018 to reject the prayer of grant of certificate to the petitioner in 'C' form.

12. On perusal of the above referred material and more particularly on perusal of Government Resolution dated 22nd June, 2016, a copy of which is placed on record, wherein the State Government specifically directed to the competent officers to obtain the earlier caste certificate issued in favour of the candidates prior to 2003 and issue fresh certificate to such candidates under the provisions of Maharashtra Scheduled Tribes (Regulation of Issuance and verification of) Certificate Rules, 2003 in form 'C'.

13. Learned Counsel for the petitioner submitted that the petitioner is also ready to surrender his earlier certificate. We find considerable merit in the submission of learned Counsel for the petitioner. He is justified in making submission before us that the order dated 18th February, 2019,

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whereby the authority declined to issue certificate to the petitioner is by way of a mechanical approach and is unsustainable.

14. Accordingly, the petition is allowed in terms of prayer clauses (B) and (C). We make it clear that on obtaining fresh certificate so issued by respondent No.4 – Sub Divisional Officer, the petitioner to submit the same to his employer i.e. respondent Nos.2 and 3 and respondent Nos.2 and 3 may take appropriate action as per Rules.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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